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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

FILE: [redacted] Office: Miami Date: SEP 25 2003

IN RE: Applicant: [redacted]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

ON BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting District Director, Miami, Florida, who certified his decision to the Administrative Appeals Office for review. The acting district director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act (CAA) of November 2, 1966. This statute provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The acting district director determined that the applicant was inadmissible to the United States because he falls within the purview of section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii). The acting district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

Section 212(a)(6)(C)(ii) of the Act states, in part:

> Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the Untied States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

Section 212(a)(7) of the Act states in part:

> (A)(i) Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission --
>
> > (I) who is not in possession of a valid unexpired immigrant visa, reentry permit,

[redacted]

> border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 211(a), is inadmissible.

The record reflects that on September 14, 2000, the applicant arrived at the Miami International Airport and presented himself to an immigration officer for inspection by presenting a U.S. passport. He was referred to secondary inspection for examination of the document as a possible photo-substituted passport and false claim to U.S. citizenship. In secondary, it was determined that the U.S. passport was photo substituted. The applicant was subsequently searched and a Cuban birth certificate was found in his possession. When questioned, he stated that he is a national of Cuba, but he refused to give any other statement. He was, therefore, referred to the Expedited Removal (ER) Unit for processing.

At the ER Unit, the applicant, in a sworn statement before an officer of the Service, subsequently stated that he paid between $500 to $600 for the U.S. passport, that he used the passport to leave Cuba, and that he presented the passport to the Service inspection officer. The applicant admitted that he knew it was illegal to attempt entry into the United States by claiming to be a U.S. citizen, and that he knew the U.S. passport containing his photograph that he presented to the Service officer was not a valid document. He further stated that he came to the United States because he wanted asylum.

The applicant was detained for a hearing before an immigration judge after it was determined that he was inadmissible to the United States, pursuant to sections 212(a)(6)(C)(ii) and 212(a)(7)(A)(i)(I) of the Act.

Unlike the alien in *Matter of Y-G-*, 20 I&N Dec. 794 (BIA 1994), where he promptly provided his true name to the immigration inspectors, the applicant, in this case, did not immediately confess his true name and identity, and that he was not a U.S. citizen. Rather, it was not until the applicant was confronted with the findings did he admit his true name and that the U.S. passport was fraudulent.

Accordingly, the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act. There is no waiver available to an alien found inadmissible under this section. The applicant was offered an opportunity to submit evidence in opposition to the acting district director's findings. No additional evidence has been entered into the record.

The applicant is ineligible for adjustment of status to permanent residence, pursuant to section 1 of the Act of November 2, 1966. The decision of the acting district director to deny the application will be affirmed.

ORDER: The acting district director's decision is affirmed.